

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF OKLAHOMA**

(1) TIMMY MURRAY,)	
)	
Plaintiff,)	
)	
v.)	Case No. 16 - CV - 570 - SPS
)	
(1)CARDINAL TRANSPORT, INC,)	Removed from the District Court
(2) RICHARD W. MOORE, and)	of Pittsburg County
(3)CANAL INSURANCE COMPANY,)	CJ-2016-215
)	
Defendants.)	

NOTICE OF REMOVAL

COMES NOW Defendant Canal Insurance Company (“Canal”) and submits this Notice of Removal to the United States District Court for the Eastern District of Oklahoma and states as follows:

1. Canal files this Notice of Removal pursuant to 28 U.S.C. §§1332, 1441(a) and 1446.
2. Plaintiff filed this action against Defendants in the District Court of Pittsburg County, State of Oklahoma, Case No. CJ-2016-215, on September 13, 2016. (Petition, attached as Exhibit 1).
3. On December 5, 2016, Canal received service of the Petition through its registered agent in South Carolina. (Summons, attached as Exhibit 2).
4. This action could have been originally filed in this Court pursuant to 28 U.S.C. §§ 1332, in that there is complete diversity among the parties, and the amount in controversy is in excess of the statutory threshold of \$75,000, exclusive of fees and costs.
5. This Notice of Removal is timely because it is being filed within thirty (30) days of Canal’s receipt of service of Summons and Petition. 28 U.S.C. §1446(b). (Exhibit 2).

6. Plaintiff alleges that he was injured as a result of an incident involving his motor vehicle and a commercial truck driven by Defendant Richard W. Moore on or about September 24, 2012 in Pittsburg County, thus, venue is proper in this court. (Exhibit 1).

7. Plaintiff seeks damages in an amount in excess of \$75,000.00, exclusive of fees and costs. (Exhibit 1).

8. Jurisdiction in this court is proper because complete diversity of citizenship exists between Plaintiff and Defendants. Plaintiff is a citizen of Oklahoma. Defendant Cardinal Transport, Inc. is a Delaware corporation with its principle place of business in Illinois. Defendant Canal Insurance Company is a South Carolina corporation with its principal place of business in South Carolina. Richard W. Moore is a citizen of Missouri. (Exhibit 1).

9. As of this date, Richard W. Moore has not been served. Further, service on Cardinal Transport, Inc. is not proper because the Summons for Cardinal Transport, Inc. was inadvertently mailed to the service agent for Canal. Cardinal Transport, Inc. has not yet had the opportunity to address this issue with Plaintiff's counsel and may or may not seek to quash service. The undersign counsel represents all defendants, including Cardinal Transport, Inc. and Richard W. Moore. Though un-served or improperly served, Richard W. Moore and Cardinal Transport, Inc. consent to removal of this case pursuant to 28 U.S.C. § 1446(b)(2), without waiver of their right to require Plaintiff to properly effect service.

10. Pursuant to 28 U.S.C. § 1446(a), copies of all process, pleadings and orders served on the Defendants are attached hereto. Exhibit 1, Petition; Exhibit 2, Summons-Canal Insurance Company; Exhibit 3, Summon-Cardinal Transport, Inc.; Exhibit 4, Entry of Appearance by Plaintiff's Counsel. Pursuant to LCvR 81.2, a copy of the docket sheet from the District Court of Pittsburg County is also attached as Exhibit 5.

11. Pursuant to 28 U.S.C. § 1446(d) written notice of this removal is being served on opposing counsel and filed with the clerk of the District Court of Pittsburg County. (Notice of Filing Notice of Removal, attached as Exhibit 6).

WHEREFORE, Defendant requests that this action be removed to the United States District Court for the Eastern District of Oklahoma and that this Court assume jurisdiction over this action and proceed to final determination thereof.

Respectfully submitted,

By: s/Harris A. Phillips
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